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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,096	11/14/2003	Scott C. Harris	GPSPriv-CPD1/SCH	9519
23844	7590	09/09/2005	EXAMINER	
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			PHAN, DAO LINDA	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,096

Applicant(s)

HARRIS, SCOTT C.

Examiner

Dao L. Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 17-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 30-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Response to restriction received on June 9, 2005 has been entered in this application.
2. Claims 1-16, 30-42 are examined. However, claims 17-26 do not depend from claim 1 and are not examined.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-16, 30-42 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/682,600. Although the conflicting claims are not identical, they are not patentably distinct from each other because the features of 1-16, 30-42 are read over the features of claims 1-20 of copending Application No. 09/682,600.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-16, 30-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4 of U.S. Patent No. 6,700,534. Although the conflicting claims are not identical, they are not

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patentably distinct from each other because the features of 1-16, 30-42 are read over the features of claims 1-2, 4 of U.S. Patent No. 6,700,534.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-16, 30-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuzunuki et al (US 2005/0144049) or Necher (US 2001/0026240).

Kuzunuki et al teach a system and a method including a portable computer having a processor 10-3, an information detection part 10-4 and a communication part 10-2, the portable computer acquiring 50-3a at least a plurality of items of information that are sensed by the location detection part, and the communication part 10-2 communicating the plurality of items of information to a remote server 50, and obtaining 10-3 current position information, indicative of a user's current position, which position information is based on the information from the remote server.

Necher teaches a system and a method including a portable computer having a processor 54, an information detection part 76 and a communication part 64, 62 the portable computer acquiring at least a plurality of items of information that are sensed by the location detection part, and the communication part 64, 62 communicating the plurality of items of information to a remote server, and obtaining (54; fig. 5) current

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position information, indicative of a user's current position, which position information is based on the information from the remote server.

8. Claims 1-16, 30-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Maeda et al (Pat. No. 6,226,589) or McMahan (Pat. No. 6,437,735).

Maeda et al teach a system and a method including a portable computer having a processor 25, an information detection part 21 and a communication part 23, the portable computer acquiring at least a plurality of items of information that are sensed by the location detection part 21, and the communication part 23 communicating the plurality of items of information to a remote server 3, and obtaining current position information, indicative of a user's current position, which position information is based on the information from the remote server.

McMahan teaches a system and a method including a portable computer having a processor 122, an information detection part 164 and a communication part 162, the portable computer acquiring 304 at least a plurality of items of information that are sensed by the location detection part, and the communication part communicating the plurality of items of information to a remote server 202, and obtaining 312 current position information, indicative of a user's current position, which position information is based on the information from the remote server.


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dao L. Phan whose telephone number is (571)272-6976. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DAO PHAN
PATENT EXAMINER